

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 98-0391 JB

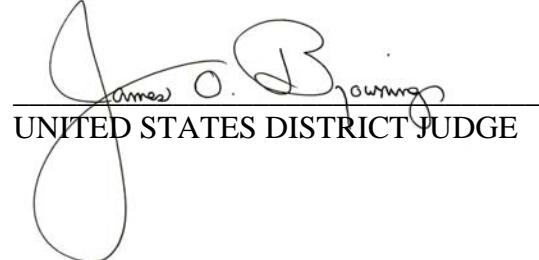
MEL LAMBERT VELARDE,

Defendant.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on Defendant Mel Velarde's Motion for Leave to Conduct Discovery, filed August 23, 2007 (Doc. 375). The Court held a hearing on February 11, 2008. The primary issue before the Court is whether the Court should expand the scope of the evidentiary hearing to include testimony from witnesses who can detail the nature of the victim's touching allegations and state whether the school system determined them to be false, so that the Court can make an informed ruling whether a new trial is warranted under United States v. Sinclair, 109 F.3d 1527 (10th Cir.1997). Because the Court effectively granted this motion by issuing all the subpoenas that Defendant Mel Lambert Velarde requested, because the Court held the evidentiary hearing that Velarde requested and in which he was able to examine all relevant witnesses, and because the Court has issued a Memorandum Opinion and Order filed May 16, 2008 (Doc. 414), which held that a new trial was warranted under United States v. Sinclair, the Court will deny this motion as moot.

IT IS ORDERED that Defendant Mel Velarde's Motion for Leave to Conduct Discovery is denied as moot.



James O. Bowning
UNITED STATES DISTRICT JUDGE

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